

SENATE BILL 429

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CF HB 278

By: **Senators Kelley and Conway**

Introduced and read first time: January 29, 2010

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2010

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Medical Eligibility for Nursing**
3 **Facility Level of Care – Report**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 ~~determine that certain individuals are medically eligible for certain services~~
6 ~~under certain circumstances; requiring the Department to allow individuals to~~
7 ~~submit certain information under certain circumstances~~ provide a certain report
8 to certain committees of the General Assembly and the Medicaid Advisory
9 Committee within a certain time period prior to making any change to medical
10 eligibility for certain Medical Assistance Program long-term care services;
11 requiring the Department to discuss certain reports submitted to the Medicaid
12 Advisory Committee at a meeting of the Committee; defining a certain ~~term~~
13 term; and generally relating to medical eligibility for nursing facility level of
14 care under the Maryland Medical Assistance Program.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 1–101(a) and (c) and 15–101(a) and (h)
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

20 BY adding to
21 Article – Health – General
22 Section 15–146
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2009 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Health – General**

5 1–101.

6 (a) In this article the following words have the meanings indicated.

7 (c) “Department” means the Department of Health and Mental Hygiene.

8 15–101.

9 (a) In this title the following words have the meanings indicated.

10 (h) “Program” means the Maryland Medical Assistance Program.

11 **15–146.**

12 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
13 ~~MEANINGS INDICATED.~~

14 ~~(2) “ACTIVITIES OF DAILY LIVING” MEANS BATHING, DRESSING,~~
15 ~~MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.~~

16 ~~(3) “HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM~~
17 ~~AND BOARD” MEANS:~~

18 ~~(I) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS ON~~
19 ~~ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES~~
20 ~~OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR~~
21 ~~DISABILITY;~~

22 ~~(II) SUPERVISION OF AN INDIVIDUAL’S PERFORMANCE OF~~
23 ~~TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:~~

24 ~~1. WITH COGNITIVE DEFICITS, AS INDICATED BY A~~
25 ~~SCORE OF 15 OR LESS ON THE FOLSTEIN MINI-MENTAL STATUS EVALUATION~~
26 ~~OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN,~~
27 ~~PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER CLINICAL; AND~~

28 ~~2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST~~
29 ~~THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR~~

~~(III) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:~~

- ~~1. WANDERING SEVERAL TIMES A DAY;~~
- ~~2. HALLUCINATIONS OR DELUSIONS AT LEAST WEEKLY;~~
- ~~3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL TIMES A WEEK;~~
- ~~4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE BEHAVIOR SEVERAL TIMES A WEEK; OR~~
- ~~5. SELF-INJURIOUS BEHAVIOR SEVERAL TIMES A MONTH.~~

~~(4) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS TELEPHONE USE, MONEY MANAGEMENT, HOUSEKEEPING, AND MEDICATION MANAGEMENT.~~

~~(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES, ON A REGULAR BASIS, HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD.~~

~~(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL NEED FOR HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE REGULATIONS.~~

~~(A) IN THIS SECTION, "HOME- AND COMMUNITY-BASED WAIVER SERVICES" INCLUDE SERVICES PROVIDED UNDER THE LIVING AT HOME WAIVER, THE OLDER ADULTS WAIVER, AND THE MEDICAL DAY CARE WAIVER.~~

~~(B) AT LEAST 90 DAYS PRIOR TO MAKING ANY CHANGE TO MEDICAL ELIGIBILITY FOR PROGRAM LONG-TERM CARE SERVICES, INCLUDING NURSING FACILITY SERVICES, HOME- AND COMMUNITY-BASED WAIVER SERVICES, AND OTHER SERVICES THAT REQUIRE A NURSING FACILITY LEVEL OF CARE, THE DEPARTMENT SHALL PROVIDE A REPORT TO:~~

1 **(1) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH**
2 **AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246**
3 **OF THE STATE GOVERNMENT ARTICLE; AND**

4 **(2) THE MEDICAID ADVISORY COMMITTEE.**

5 **(C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION**
6 **SHALL INCLUDE:**

7 **(1) THE DETAILS OF THE INTENDED CHANGE IN MEDICAL**
8 **ELIGIBILITY;**

9 **(2) A DESCRIPTION OF HOW THE INTENDED CHANGE WILL**
10 **AFFECT CURRENT MEDICAL ELIGIBILITY;**

11 **(3) THE INTENDED EFFECTIVE DATE OF THE CHANGE; AND**

12 **(4) WHETHER THE CHANGE WILL BE PURSUED THROUGH**
13 **DEPARTMENTAL POLICY, BY REGULATION, OR BY STATUTE.**

14 **(D) THE DEPARTMENT SHALL DISCUSS ANY REPORT SUBMITTED TO**
15 **THE MEDICAID ADVISORY COMMITTEE UNDER SUBSECTION (B) OF THIS**
16 **SECTION AT A MEETING OF THE MEDICAID ADVISORY COMMITTEE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.